

IN THE UNITED STATES DISTRICT COURT FOR THE
FOR THE DISTRICT OF DELAWARE

ROCEP LUSOL HOLDINGS LIMITED)

Plaintiff and Counterclaim defendant,)

v.)

PERMATEX, INC. and)

ULTRAMOTIVE CORPORATION)

Defendant)

Civil Action No. –CV-05-141(KAJ)

DECLARATION OF CHRISTIAN T. SCHEINDEL IN SUPPORT OF DEFENDANTS'

OPPOSITION TO PLAINTIFF MOTION FOR SUMMARY JUDGMENT OF

INFRINGEMENT OF THE CLAIMS IN U.S. 6,685,064

CHRISTIAN T. SCHEINDEL, hereby declares and says the following under the penalty of perjury, pursuant to 28 U.S.C. § 1746:

1. I am President of Defendant Ultramotive Corporation. I give this declaration in support of Defendants' Opposition to Plaintiff's Motion for Summary Judgment of Infringement of the Claims in U.S. 6,685,064.

2. I am familiar with Defendants' accused lever-operated dispensing cans. Hereafter, I refer to them as "Defendants' Accused Products."

3. A substantial portion of Defendants' Accused Products, and all of those presently marketed, employ proprietary valves designed and intended to operate by axial displacement.

4. The valves used in Defendants' Accused Products are not designed or intended to be used in a tilt fashion.

5. I have designed proprietary valves which are incorporated into Defendants' Accused Products. These valves have specific features to make the valves operate via axial displacement of the valve stem.

6. The valves which are incorporated into the Accused Products have a small "button" at the base of the valve stem. This small button size facilitates axial displacement, since the smaller button surface area provides less resistance against the pressure inside the container during depression of the valve stem. This small button size also makes tilting of the valve more difficult, because the button is too small to slide over the tapered portion of the bottom of the grommet if a user attempts to tilt the valve stem..

7. The valves which are incorporated into the Accused Products have no widening of the through opening at the base of the grommet. Valves meant to tilt have this widening of the opening at the grommet base, to give the valve stem more "wiggle room" when tilting. In valves designed for axial displacement, that "wiggle room" serves no function.

8. The valves which are incorporated into the Accused Products have thin walls on the upper portion of the grommet. This is the portion also known as the "boot" or the "sleeve." These thin walls provide less resistance to the axial displacement of the valve stem.

9. During operation of the Accused Products, the lever and nozzle assembly are at all times in contact. The can seals when manual pressure on the lever is removed and the pressure of the product in the can causes the valve to close and thus seal the contents of the can.

I declare that the foregoing is true and correct and based upon my own personal knowledge. Executed on July 28, 2006.


Christian T. Scheindel